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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,238	02/19/2002	Koji Kuchiishi	34205	8161
116	7590	12/01/2005	EXAMINER	
PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			DAO, MINH D	
			ART UNIT	PAPER NUMBER
			2682	

DATE MAILED: 12/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/980,238	Applicant(s) KUCHIISHI ET AL.	
	Examiner MINH D. DAO	Art Unit 2682	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 5-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5 and 6 is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 7-9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

1. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Halttunen et al. (US 5,844,166) in view of Fujihira (JP 01221099 A).

Regarding claim 1, Halttunen teaches a portable radio apparatus (see fig. 6, col. 5, lines 46-67) comprising: a radio circuit (see fig. 6, PCB 59); a speaker (see col. 1, lines 24-

55); and a shield member for electromagnetically shielding the radio circuit from the speaker (see fig. 6, item 51; col. 5, lines 46-67). However, Halttunen fails to teach that the shield member includes at least one ventilation hole having a size that does not affect the shielding performance, and wherein the ventilation hole is provided close proximity and opposite of a sound hole at a rear of the speaker. Fujihira, in an analogous art, teaches a speaker unit that has a shield member having opening located in the opposite side of a sound hole at a rear of the speaker for cooling off the speaker in operation (see abstract of Fujihira; also see fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide the teaching of Fujihira to Halttunen in order to have a radiotelephone that includes a speaker with ventilation hole that would ventilate the warm air to the outside of the speaker therefore to cool off the speaker in operation as taught by Fujihira in his abstract.

Regarding claim 2, Halttunen and Fujihira once combined teaches a portable radio apparatus according to claim 1, wherein the shield member is a shield case disposed to cover the radio circuit (see Halttunen, fig. 6, shield 51, and Fujihira, fig. 1, shield member 20).

Regarding claim 3, Halttunen and Fujihira once combined teaches a portable radio apparatus according to claim 1, wherein the shield member is a holder having a shape

to cover the rear and sides of the speaker (see Halttunen, fig. 6, shield 51, and Fujihira, fig. 1, shield member 20).

Response to Arguments

2. Applicant's arguments filed 09/08/2005 have been fully considered but they are not persuasive.

3. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation to combine Fujihira and Halttunen is, as mentioned in the previous action, to have a radiotelephone that includes a speaker with ventilation hole that would ventilate the warm air to the outside of the speaker therefore to cool off the speaker in operation as taught by Fujihira in his abstract.

In response to applicant's argument, on page 7, that Fujihira fails to teach that the opening 24 is of a size that does not affect the shielding performance. Examiner

disagrees. Since the ventilation hole 24 of Fujihira is designed to be on the shielding member 20 so that when the diaphragm 11 oscillates, the air current (created by the acoustic waves) can flow from the back of the speaker through cabinet 3, therefore its size should not affect the performance of the shielding member 20.

Allowable Subject Matter

4. Claims 5, 6 are allowed.

Claims 5, 6 are allowed for the reasons stated on pages 7 and 8 of the applicant's remark filed 09/08/2005.

5. Claims 7-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claim 7, the combination of Halttunen and Fujihira teaches the limitations of claim 1, but fails to teach that the size of the ventilation hole specified depending on the radio use frequency of the portable radio apparatus so as not to affect the performance of shielding the speaker from an electromagnetic wave radiating from the radio circuit.

Regarding claim 8, the combination of Halttunen and Fujihira teaches the limitations of claim 1, but fails to teach that the air compressed by vibration of the speaker is

propagated around from the rear of the speaker and a part of the compressed air passes through the ventilation hole on the shield case reaching the space within the shield case which includes the radio circuit and allowing the space within the shield case to be used for upgrading sound quality of the speaker.

Regarding claim 9, the combination of Halttunen and Fujihira teaches the limitations of claim 1, but fails to teach that the air compressed by vibration of the speaker is propagated around from the rear of the speaker and passes through the ventilation hole on the shield case reaching the space around the shield case which includes the radio circuit and allowing the space around the shield case to be used for upgrading sound quality of the speaker.

Conclusion

6. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MINH D. DAO whose telephone number is 571-272-7851. The examiner can normally be reached on 8:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, QUOCHIEN VUONG can be reached on 571-272-7902. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Minh Dao *md*
Art unit 2682
November 22, 2005

Quochien B. Vuong 11/28/05
QUOCHIEN B. VUONG
PRIMARY EXAMINER